

APPEAL NO. 022791  
FILED DECEMBER 23, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 11, 2002. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appealed on sufficiency of the evidence grounds and the respondent (carrier) responded.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to second quarter SIBs. At issue is whether the claimant made a good faith effort to seek employment commensurate with her ability to work and whether her underemployment was a direct result of the impairment for the compensable injury. These were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The evidence sufficiently supports the hearing officer's determination that the claimant's underemployment was not a direct result of her compensable injury as evidenced by the medical records. Additionally, the evidence sufficiently supports the hearing officer's determination that the claimant did not make a good faith effort to seek employment. The hearing officer determined that the claimant did not return to work in a position that was relatively equal to the injured claimant's ability to work, and that the claimant did not document job searches every week of the qualifying period in dispute. Nothing in our review of the record reveals that the hearing officer's determination that the claimant is not entitled to SIBs for the second quarter is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Veronica Lopez  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Panel  
Manager/Judge